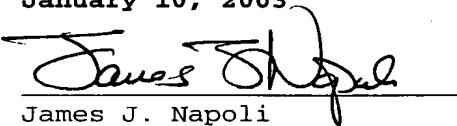




PATENT--FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:) I hereby certify that this
JOHN S. WHITAKER ET AL.) paper is being deposited
Serial No.: 09/834,442) with the United States
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Attorney Docket No. 29342/37225) Commissioner for Patents
Group Art Unit: 1615) Washington, D.C. 20231 on
Examiner: M. Bahar) this date:
January 10, 2003

James J. Napoli
Registration No. 32,361
Attorney for Applicants

TERMINAL DISCLAIMER TO OBLVIA TE A DOUBLE-PATENTING REJECTION OVER AN ISSUED PATENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

The undersigned, having power of attorney from the assignee, Lilly ICOS LLC, has executed this document on behalf of petitioner, Lilly ICOS LLC. Petitioner is a Delaware corporation, 1209 Orange Street, Wilmington, Delaware 19801, and is the owner of 100% interest in the instant application, as shown by the Assignment recorded July 9, 2001, at Reel 11961, Frame 0121. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §154 to §156 and

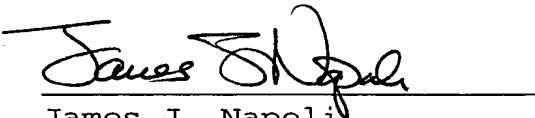
§173, as presently shortened by any terminal disclaimer of prior Patent No. 6,451,807 (U.S.S.N. 09/558,911). Petitioner also is the owner of 100% interest U.S. Patent No. 6,451,807 as shown by the assignment recorded on August 3, 2000 at Reel 11017, Frame 0503. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent No. 6,451,807 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 to §156 and §173 of prior Patent No. 6,451,807, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprison-

ment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereof.

The Commissioner is hereby authorized to credit any overpayment or charge any additional fees which may be required during the pendency of this application under 37 C.F.R. §1.16 or 37 C.F.R. §1.17 or under applicable rules (except payment of issue fees), to Deposit Account No. 13-2855.



James J. Napoli
Registration No. 32,361

Date: January 10, 2003

Our firm check in the amount of \$110.00 is enclosed in payment of the requisite Terminal Disclaimer fee under 37 C.F.R. §1.20(d).